

Message Text

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DEPT PASS FEDERAL MARITIME ADMINISTRATION FOR BENTLEY FROM ARNOLD

E.O. 11652: NA

TAGS: OTRA, CASC

SUBJ: VESSEL KAUILANI: STATUS, LOCATION, AND PLANS

REF: (A) STATE 80180; (B) STATE 95276

1. FOLLOWING IS A PRELIMINARY REPORT ON THE STATUS OF THE KAUILANI BASED MAINLY ON THE EXPLORATIONS OF CHARLES WITTHOLZ SINCE HIS ARRIVAL MANILA APRIL 24:

(A) LOCATION. AS REPORTED IN TELECONS ARNOLD/ BENTLEY AND ARNOLD/BRAYNARD, KAUILANI IS NOW LOCATED IN SHALLOW WATER ALONGSIDE THE MUNICIPAL PIER AT THE TOWN OF ORION, BATAAN. AN ADDITIONAL 100 TONS OF SCRAP, SALVAGED FROM THE KAUILANI WHILE IT WAS STILL AT MARIVELES, IS NOW LOCATED IN THE TOWN OF BALANGA, BATAAN. BOTH THE KAUILANI HULL AND THE SCRAP WERE TAKEN INTO CUSTODY IN MARCH BY THE PHILIPPINE COAST GUARD.

(B) UNAUTHORIZED SALVAGE. FOR THE RECORD IT SHOULD BE REPORTED THAT IN LATE 1973 SALVAGE OF THE KAUILANI WAS UNDERTAKEN UNDER A LICENSE ISSUED BY THE PHILIPPINE COAST GUARD TO MR. EMILIO ESPINO, A RELATIVE OF THE CHIEF OF STAFF OF AFP. ALMOST SIMULTANEOUSLY, A MEMORANDUM OF AGREEMENT WAS ENTERED INTO BETWEEN THE NATIONAL MARITIME HISTORICAL SOCIETY (NMHS) AS REPRESENTED BY UNCLASSIFIED

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MR. RICK MILLER OF THE NATIONAL MARITIME UNION AND THE

FIRM OF VELEZ ENTERPRISES TO SALVAGE THE USEABLE PORTIONS OF THE KAUILANI FOR USE IN A RECONSTRUCTION, AND TO SCRAP THE REMAINDER TO PAY FOR THE SALVAGE OPERATION. ON BEING NOTIFIED OF THE UNAUTHORIZED SALVAGE, EXECUTIVE SECRETARY ALEJANDRO MELCHOR TOOK PROMPT STEPS TO STOP ESPINO'S ACTIVITY AND TO TAKE THE VESSEL, WHICH, IN THE MEANWHILE HAD BEEN MOVED TO ORION, AS WELL AS THE SCRAP ALREADY REMOVED, INTO CUSTODY.

(C) THE ISSUE OF SALVAGE RIGHTS. UNDER PHILIPPINE

LAW AND A RECENT PRESIDENTIAL DECREE RELATED TO THE CLEARING OF DERELICTS FROM MANILA BAY, ESPINO APPEARS TO HAVE HAD A VALID LICENSE FROM THE GOVERNMENT TO SALVAGE THE KAUILANI, EVEN THOUGH HE APPEARS NOT TO HAVE COMPLIED WITH ITS PROCEDURES REGARDING NOTIFICATION OF OWNERS BEFORE INITIATING SALVAGE. THE PROBLEM FOR NMHS IN TAKING ANY ACTION AGAINST ESPINO LIES IN THE MERE FACT THAT THE KAIULANI HAS LAIN ON THE BOTTOM AT MARIVELES, UNTENDED AND UNMARKED AS TO OWNERSHIP OR INTENDED DISPOSITION SINCE 1969. IN THIS RESPECT THE PHILIPPINE GOVERNMENT THROUGH MELCHOR'S INTERCESSION MAY HAVE STRETCHED A POINT OF LAW BY SUMMARILY RECLAIMING THE KAUILANI ALONG WITH THE ALREADY SALVAGED SCRAP WITHOUT ANY INDICATION OF MEANS OR INTENT TO COMPENSATE ESPINO FOR HIS EFFORTS. FYI: ESPINO STATES IN EFFECT IN A LETTER TO THE EMBASSY (GIVEN TO WITTHOLZ) THAT HE IS PREPARED TO RELINQUISH HIS CLAIM (SIC), ON PAYMENT FOR THE WORK HE HAS PUT INTO THE SALVAGE ALREADY ACCOMPLISHED. END FYI.

2. FOLLOWING VISUAL INSPECTION OF THE KAUILANI MAY FOUR, WITTHOLZ IS NOW PROCEEDING WITH THE ASSISTANCE OF VELEZ TO CLEAN AND MARK SECTIONS OF THE HULL FOR REMOVAL. WITHHOLZ ESTIMATES THIS PROCESS WILL TAKE AT LEAST A WEEK. HE IS NOW STAYING FULL TIME WITH THE PROJECT AT A BEACH RESORT QUITE CLOSE TO ORION. BOTH THE PHILIPPINE COAST GUARD AND THE OFFICE OF EXECUTIVE SECRETARY MELCHOR HAVE BEEN DULY NOTIFIED OF THE SOCIETY'S INTENT TO IDENTIFY, REMOVE AND SHIP TO THE UNITED STATES ALL PORTIONS OF THE KAUILANI OF INTEREST IN RECONSTRUCTION, AND TO SCRAP THE REMAINDER. NO OFFICIAL EXCEPTION HAS BEEN TAKEN TO THIS PROPOSAL. UNCLASSIFIED

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3. ARNOLD HAS DISCUSSED PROSPECTS FOR THE SUCCESS OF CURRENT PLAN AT LENGTH WITH WITHHOLZ. THREE MAIN POINTS FROM THIS DISCUSSION ARE WORTH NMHS CONSIDERATION: (A) IT REMAINS VERY DOUBTFUL THAT COSTS OF BREAKUP AND HANDLING CAN BE DEFRAIDED FROM SCRAP SALE, EVEN AT PRESENTLY HIGH PRICES; (B) ESPINO HAS DEFINITELY NOT GIVEN UP EFFORT TO COLLECT FOR HIS WORK AND IT IS NOT LIKELY THAT

THREATS OF LEGAL ACTION, AS PROPOSED BY VELEZ, REYES AND LIM, WILL FORCE ESPINO TO ABANDON, PARTICULARLY THE BALANGA SCRAP; (C) RE LATTER, WHILE WITHHOLZ OF VIEW THAT SCRAP IS TOO SMALL IN SECTION TO BE USED IN RECONSTRUCTION, IT MAY BE WORTHWHILE TO RETAIN SOME PORTIONS.

4. PER REF B. DEPARTMENT MAY WISH NOTIFY WITTHOLZ FAMILY OF HIS PRESENT WHEREABOUTS AND ACTIVITIES. ARNOLD WILL BE IN TOUCH WITH HIM ON WEEKEND AND WILL REPORT FURTHER AS APPROPRIATE.
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